

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1729.01  
**COMPLAINT INVESTIGATOR:** Steve Starbuck  
**DATE OF COMPLAINT:** April 9, 2001  
**DATE OF REPORT:** May 14, 2001  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** September 20, 2001

**COMPLAINT ISSUES:**

Whether the Jennings County Schools and the Madison Area Educational Special Services Unit violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP), specifically:

- a. failing to provide the student with a "break pass" as needed;
- b. failing to place the student in general education classes for the entire instructional day;
- c. failing to provide instructional accommodations in math class;
- d. failing to provide a daily meeting between the student and LD teacher to check the student's homework; and
- e. failing to provide LD consultation for 15 minutes each week.

511 IAC 7-27-4(a)(4) with regard to the school's alleged failure to utilize the case conference committee (CCC) to change the student's educational services, specifically, placement in a remediation class.

511 IAC 7-27-5(d) with regard to the school's alleged failure to obtain parental consent prior to changing the student's placement by placing the student in a remediation class.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record:

- a. regularly monitored the implementation of the student's IEP with respect to the student's placement and provision of identified accommodations;
- b. informed each teacher and provider of his or her specific responsibilities related to implementing the student's IEP; and
- c. ensured that supplementary aids and services, program modifications and supports for school personnel were provided in accordance with the student's IEP.

511 IAC 7-27-5(c) with regard to the school's alleged failure to provide the parent with a copy of the Case Conference Summary Report no later than 10 business days after the date of the CCC meeting.

During the course of the investigation, additional issues were identified, which are:

511 IAC 7-27-3(a)(3) with regard to the school's alleged failure to include a general education teacher as a participant at the CCC meeting convened on August 16, 2000.

511 IAC 7-27-6(a)(5) with regard to the school's alleged failure to specify in the student's IEP the

length and frequency of special education services.

The Complaint Investigation Report was originally due on May 9, 2001, however, due to the need for additional time to complete the Report, an extension was approved by the state director of special education extending the deadline until May 14, 2001.

#### **FINDINGS OF FACT:**

1. The student is fourteen years old, attends the eighth grade, and has been determined eligible for special education under the category of other health impairment.
2. The IEP dated August 16, 2000, indicates that the student will be allowed breaks as needed as a testing adaptation. The Instructional Accommodations page of the IEP reflects that the student will be provided with frequent breaks as a behavior management tool as needed by the student or teacher. According to the school corporation's special education director, the student was provided with a permanent student pass that allowed the student to leave the classroom at any time simply by presenting the pass to the teacher. The parent states that her child informed her that he was not permitted this flexibility by the teaching staff. The director reports the teacher of record explained to both the general and special education staff at the beginning of the school year the reason for using the break pass and how it was to be used. The school corporation's special education director provided the Division with a statement signed and dated by all of the student's teachers indicating the student was allowed to use his break pass in their respective classrooms as needed. The teacher of record reports in her letter to the investigator dated May 7, 2001, that the student only had access to a permanent pass in his agenda book since November 2000. The student's IEP dated August 16<sup>th</sup> has an initiation dated of August 21, 2000.
3. The IEP dated August 16<sup>th</sup> reflects that the student will participate in general education instruction for the entire instructional day. The school principal provided the student's class schedule for the first and second semesters of the 2000-2001 school year. The class schedules reflect that the student has participated in general education classes for both semesters. The principal also signed a statement confirming this information.
4. The Instructional Accommodations page of the IEP dated August 16, 2000, lists that the student shall be provided with four instructional accommodations. Under the heading "Materials" it indicates the student shall have access to a calculator. The student's teacher of record acknowledges that, until recently, she did not share with the student's math teacher those accommodations listed on the Instructional Accommodations form. The student's math teacher did provide a signed statement indicating that the student had been allowed to use a calculator in math class.
5. The August 16<sup>th</sup> IEP lists the following information: "'2:30 daily to [teacher's name] to check homework.'" The student's teacher of record (TOR) is also the student's teacher of service for LD services. The TOR/LD teacher acknowledges that she did not check the student's homework on a daily basis.
6. The August 16<sup>th</sup> IEP lists the following information: "student/staff consultation with [teacher's name] weekly to begin, then adjust as agreed upon with family. 1 x weekly 15 min." The student's annual goal form reflects that the LD teacher shall consult with the student's general education teachers one time weekly to evaluate the student's progress in the academic classroom. The TOR/LD teacher did not meet with each one of the student's general education teachers on a weekly basis and did not keep a record of when and for how long she actually provided consultative services to the student's teachers. The TOR/LD teacher reports that she did communicate with the student on

nearly a daily basis and communicated with the student's teachers on a weekly to biweekly basis. She acknowledged not providing all of the student's teachers with a copy of the student's Instructional Accommodations form.

7. The parent asserts that putting the student in a remediation class constituted a change of placement, requiring a CCC decision and parental consent. The CCC met on August 16, 2000, and the CCC Summary/IEP reflects that the CCC convened "to review the IEP and schedule that had been developed at the 5-19-2000 annual case review meeting." Page 10 of the CCC Summary/IEP reflects: "General Education Services the Student Will Receive: All classes as per attached schedule." A copy of the student's first semester schedule dated August 16, 2000, was attached to the IEP and indicates that the student will participate in a remediation class. The student's father signed the IEP on August 16, 2000, indicating agreement with the services recommended and giving permission for the IEP to be implemented.
8. The parent states that she never received a copy of the Case Conference Summary Report for the August 16, 2000, CCC meeting. The special education director for the school corporation states all documents pertaining to the August 16<sup>th</sup> meeting were mailed to the parent on August 18, 2000. Although a copy of the August 18<sup>th</sup> letter was provided to the Division, the Case Conference Summary Report for this CCC meeting is dated August 26, 2000. The director for the school corporation states that he could not recall why the Case Conference Summary Report would be dated after the date he mailed the CCC meeting information to the parent. The parent states she has now received a copy of the Case Conference Summary Report.
9. Page nine of the August 16<sup>th</sup> IEP lists those individuals who attended the CCC meeting by the attendee's signature. The space on the form for the general education teacher's signature is blank. The student's IEP dated August 16<sup>th</sup> reflects that the student will participate in general education classes the entire instructional day. The special education director for the school corporation acknowledges that none of the student's general education teachers attended the August 16, 2000, CCC meeting.
10. Page 4 of the August 16<sup>th</sup> IEP indicates that the student will receive LD consultation for mathematics as needed. The length and frequency for providing the LD consultation service to the student is not specified in the IEP. In addition, there is no explanation on the IEP to determine how the phrase "as needed" is defined or how the parent would know how often and for how long the student would receive the LD consultation services.

#### **CONCLUSIONS:**

1. Finding of Fact #2 reflects that the student should have been provided with a "break pass" on August 21, 2000; however, the school did not provide the student with one until November 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 indicates that the student did participate in general education classes for the entire instructional day for the 2000-2001 school year. Therefore, no violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 reflects that the student was not provided with the identified instructional accommodations for math class. Therefore, a violation of 511 IAC 7-27-7(a) is found.
4. Finding of Fact #5 indicates that the TOR/LD teacher did not meet daily with the student to check his homework. Therefore, a violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #6 reflects that LD consultation was not provided to the student or the student's

teachers as specified in the IEP dated August 16, 2000. Therefore, a violation of 511 IAC 7-27-7(a) is found.

6. Finding of Fact #7 indicates that a CCC meeting was utilized to determine if the student should participate in a remediation class. Therefore, no violation of 511 IAC 7-27-4(a)(4) is found.
7. Finding of Fact #7 reflects that parental consent was obtained prior to changing the student's class schedule to include a remediation class. Therefore, no violation of 511 IAC 7-27-5(d) is found.
8. Findings of Fact #2, #4, #5, and #6 indicate that had the student's TOR/LD teacher failed to monitor the implementation of the student's IEP, failed to inform the student's teachers of the instructional accommodations identified in the student's IEP, and failed to ensure that identified modifications and supports were provided in accordance with the student's IEP. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
9. Finding of Fact #8 reflects that the school failed to provide the parent with a copy of the August 16, 2000, Case Conference Summary Report no later than 10 business days after the date of the CCC meeting. Therefore, a violation of 511 IAC 7-27-5(c) is found.
10. Finding of Fact #9 indicates that the school failed to include a general education teacher as a participant at the CCC meeting convened on August 16, 2000. Therefore, a violation of 511 IAC 7-27-3(a)(3) is found.
11. Finding of Fact #10 reflects that the school failed to specify in the August 16<sup>th</sup> IEP the length and frequency of special education services. Therefore, a violation of 511 IAC 7-27-6(a)(5) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Jennings County Schools and the Madison Area Educational Special Services Unit shall:

1. Convene a CCC meeting no later than the first day of school for the 2001-2002 school year, to determine the student's need for compensatory educational services and to specify in the IEP the length and frequency of all special education services. Submit to the Division no later than September 4, 2001, a copy of the revised IEP and the Case Conference Summary Report.
2. Inservice all appropriate school personnel as to the requirements specified in 511 IAC 7-17-72, 511 IAC 7-27-3(a)(3), 511 IAC 7-27-5(c), 511 IAC 7-27-6(a)(5), and 511 IAC 7-27-7(a) and (b). Submit documentation to the Division that the inservice training has been completed no later than September 21, 2001. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
3. Submit to the Division no later than June 8, 2001, a letter of assurance that ensures all IEPs developed for the student will be implemented as written. The letter of assurance shall be signed by the planning district's director and the special education director for the school corporation.

DATE REPORT COMPLETED: May 14, 2001